

01 STATEMENT UNDER OATH
02 OF
03 SETH OSBORNE
04
05
06 Taken pursuant to Notice by Miranda
07 D. Elkins, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at the Mine Safety &
10 Health Administration, 818-D Arbuckle
11 Road, Summersville, West Virginia, on
12 Thursday, February 23, 2006, at 5:00
13 p. m.

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01 P R O C E E D I N G S

02 -----

03 MR. O' DONNELL:

04 My name is Joe
05 O' Donnell. I'm an accident
06 investigator with the Mine
07 Safety and Health
08 Administration, an agency of
09 the United States Department
10 of Labor. With me is Tim
11 Williams from the Solicitor's
12 Office, John Collins and Dave
13 Stuart with the West Virginia
14 Office of Miners' Health,
15 Safety & Training. I've been
16 assigned to conduct an
17 investigation into the
18 accident that occurred at the
19 Sago Mine on January the 2nd,
20 2006, in which 12 miners died
21 and one was injured.

22 The investigation is
23 being conducted by MSHA and
24 the West Virginia Office of
25 Miners' Health, Safety &

7

01 Training to gather information
02 to determine the cause of the
03 accident. These interviews
04 are an important part of the
05 investigation.

06 At this time, the
07 accident investigation team
08 intends to interview a number
09 of people to discuss anything
10 that may be relevant to the
11 cause of the accident. After
12 the investigation is
13 completed, MSHA will issue a
14 written report detailing the
15 nature and causes of the
16 accident. MSHA accident
17 reports are made available to
18 the public in the hope that
19 greater awareness about the
20 causes of accidents can reduce
21 their occurrence in the
22 future.

23 Information obtained
24 through witness interviews is
25 frequently included in these

8

01 reports. Your statement may
02 also be used in other
03 enforcement proceedings. I'd
04 like to thank you in advance
05 for your appearance here. We
06 appreciate your assistance in

07 this investigation. The
08 willingness of miners and mine
09 operators to work with us is
10 critical to our goal of making
11 the nation's mines safer.

12 We understand the
13 difficulty for you in
14 discussing the events that
15 took place, and we greatly
16 appreciate your efforts to
17 help us understand what
18 happened.

19 This interview with Mr.
20 Seth Osborne is being
21 conducted under section 103(a)
22 of the Federal Mine Safety &
23 Health Act of 1977, as part of
24 an investigation by the Mine
25 Safety and Health

9

01 Administration and the West
02 Virginia Office of Miners'
03 Health, Safety & Training into
04 the conditions, events and
05 circumstances surrounding the
06 fatalities that occurred at
07 the Sago Mine owned by
08 International Coal Group in
09 Buckhannon. Mine Safety &
10 Health field office,
11 Summersville, West Virginia on

12 February 23rd, 2006.
13 Questioning will be
14 conducted by representatives
15 of MSHA and the Office of
16 Miners' Health, Safety &
17 Training.

18 Mr. Osborne, the
19 interview will begin by my
20 asking you a series of
21 questions. If you do not
22 understand a question, please
23 ask me to rephrase it. Feel
24 free at any time to clarify
25 any statements that you make

10

01 in response to the questions.

02 After we have finished
03 asking questions, you will
04 also have an opportunity to
05 make a statement and provide
06 us with any other information
07 that you believe may be
08 important. If at any time
09 after the interview you recall
10 any additional information
11 that you believe may be useful
12 to the investigation, please
13 contact me at this phone
14 number or
15 e-mail address provided to
16 you.

17 Your statement is

18 completely voluntary. You may
19 refuse to answer any question,
20 and you may end this at any
21 time. If you need a break for
22 any reason, please let me
23 know.

24 A court reporter will
25 record your interview and will

11

01 later produce a written
02 transcript of the interview.
03 Please try and respond to all
04 the questions verbally, since
05 the court reporter cannot
06 record non-verbal responses.
07 Also, please try to keep your
08 voice up. Copies of the
09 written transcripts will be
10 available at a later time.

11 If any part of your
12 statement is based not on your
13 firsthand knowledge but on
14 information that you learned
15 from someone else, let us
16 know. Please answer each
17 question as fully as you can,
18 including any information that
19 you have learned from someone
20 else.

21 We may not ask the
22 right question to learn the

23 information you have, so don't
24 feel limited by the precise
25 question that we ask. If you

12

01 have any information about the
02 subject area of a question,
03 please provide that
04 information to us.

05 At this time, Mr.
06 Collins, do you have anything
07 you'd like to add on behalf of
08 the State of West Virginia?

09 MR. COLLINS:

10 Yes. Thank you. Mr.
11 Osborne, the West Virginia
12 Office of Miners' Health,
13 Safety & Training, we're
14 conducting this interview
15 session jointly with MSHA, and
16 we agree with the procedures
17 outlined by Mr. O'Donnell for
18 these interviews.

19 But the Director
20 reserves the right, if
21 necessary, to call or subpoena
22 witnesses and require the
23 production of any records,
24 documents, photographs, or
25 other relevant material

13

01 necessary to conduct this
02 investigation.

03 And also, here's a card
04 if after the interview you
05 have additional questions or
06 think of information that
07 you'd like to provide us, my
08 supervisor's on the front, and
09 then my name is on the back.

10 MR. O'DONNELL:

11 Mr. Osborne, are you
12 aware that you could have a
13 personal representative with
14 you today?

15 MR. OSBORNE:

16 Uh-huh (yes).

17 MR. O'DONNELL:

18 And who is your
19 representative?

20 MR. OSBORNE:

21 My mom, Louise Osborne.

22 MR. O'DONNELL:

23 All right. Thank you.

24 Please state your --- oh,
25 would you please swear in Mr.

14

01 Osborne?

02 -----

03 SETH OSBORNE, HAVING FIRST BEEN DULY
04 SWORN, TESTIFIED AS FOLLOWS:

05 -----

06 BY MR. O'DONNELL:

07 Q. Please state your full name

08 and spell your last name?
09 A. Seth Monroe Osborne,
10 O-S-B-O-R-N-E.
11 Q. And your address and telephone
12 number?
13 A. 540 Hancemooses Road,
14 H-A-N-C-E-M-O-S-E-S, Mount Lookout,
15 West Virginia 26678. (304)872-5466.
16 Q. And Seth, are you appearing
17 here today voluntarily?
18 A. Yes, sir.
19 Q. How many years of mining
20 experience do you have?
21 A. Not even ten months.
22 Q. Ten months?
23 A. Yes, sir.
24 Q. And could you give us a brief
25 description of your coal mine

15

01 employment history?
02 A. I worked down at Raw Coal,
03 Brooks Run, McDowell County and came
04 to Sago. And now I'm working for
05 Mammoth, Winifred Mine for Massey.
06 Q. And that's who your present
07 employer is?
08 A. Yes, sir.
09 Q. And how long were you at Sago?
10 When did you get hired at Sago?
11 A. All I really remember is I was
12 there about four months.
13 Q. Four months. Do you know what

14 month you think you got hired?
15 A. Somewhere in August.
16 Q. August. So it would be
17 August, September, October and
18 November?
19 A. Part of November.
20 Q. Do you know what day you left
21 in November?
22 A. All I remember is I started
23 with Massey November 16th.
24 Q. Okay. So it was up to the
25 16th, then somewhere in there?

16

01 A. Yeah.
02 Q. Okay. Were you employed by
03 the coal company or were you employed
04 by the contractor?
05 A. Yeah. I was employed by GMS
06 when I first came, and then I
07 probably worked for Anker or ICG,
08 whatever it is, probably only about a
09 week and a half, two weeks.
10 Q. So you worked for GMS?
11 A. Yes, sir.
12 Q. And do you have any mining
13 certificates?
14 A. Just my mining card.
15 Q. Okay. Just from West Virginia
16 then?
17 A. Yes, sir.
18 Q. Okay. Seth, what did you do

19 at Sago Mine, what was your job?
20 A. Mostly outby work, set
21 timbers. We did just about all that
22 screening there in the intake. And
23 whatever they needed us to do outby.
24 Build the seals.
25 Q. Who was your immediate

17

01 supervisor?
02 A. Well, the boss I was with
03 every day? If I remember, his name
04 was Skip. I don't know what his last
05 name was.
06 Q. Okay. That's okay. We know
07 who Skip is.
08 A. I figured you did.
09 Q. Let's see. We can skip that
10 one, and that one. Are you familiar
11 with the old Two Left main seals?
12 What I'm going to do is, I'm going to
13 show you a map of the Sago Mine just
14 to get you --- because you haven't
15 been there for a while. We'll call
16 this Osborne Exhibit One. And we also
17 have Osborne Exhibit Two.
18 (Osborne Exhibits One
19 and Two marked for
20 identification.)
21 BY MR. O' DONNELL:
22 Q. And Seth, are you familiar
23 with the Sago Mine?
24 A. Yeah.

25 Q. Okay. And just to give you a

18

01 little --- this is the port hole ---
02 portals here. It goes up --- that
03 was --- do you know what section that
04 is?

05 A. One Left.

06 Q. Right. And this section?

07 A. Two Left.

08 Q. And this area here?

09 A. That would be old works.

10 Q. Okay. And do you recall on
11 Exhibit Two the seal location?

12 A. Uh-huh (yes).

13 Q. And these are the seals that
14 you refer to that you helped
15 construct?

16 A. Yes, sir.

17 Q. Okay. If you would, could you
18 just briefly tell us what seals you
19 worked on?

20 A. Three through Ten.

21 Q. Three through Ten?

22 A. Yes, sir.

23 Q. Okay. Do you know when the
24 construction of those seals were
25 started?

19

01 A. No, sir.

02 Q. Do you know who was in charge
03 of building the seals?

04 A. I just know Skip was ---.
05 Q. So Skip's the one that ---?
06 A. He was pretty much the one
07 that worked on them.
08 Q. Okay. Seth, do you remember
09 them --- well, let me just jump into
10 some of the seal questions.
11 A. Okay.
12 Q. When you started there, did
13 you just start from --- you were
14 there for the beginning of the seal
15 construction ---
16 A. Yes, sir.
17 Q. --- until the end of all of
18 them?
19 A. No. I wasn't there for One
20 and Two.
21 Q. Okay.
22 A. Let me see. No, I wasn't. I
23 helped build part of Two. I wasn't
24 there for One.
25 Q. Okay. Was One already in when
01 you started?
02 A. No.
03 Q. So One was not constructed?
04 A. I remember was putting block
05 and stuff there for it, but I wasn't
06 there for it.
07 Q. Okay. So you built from Three
08 to Number Ten?
09 A. Yeah, and part of Number Two.

10 Q. And part of Number Two?
11 A. Yes, sir.
12 Q. Okay. And was it just your
13 crew that did the seal construction?
14 A. We had a few bosses, about
15 four of them that helped us every
16 once in a while.
17 Q. Do you know who they were?
18 A. I don't remember their names.
19 I remember there was four of them.
20 Q. Okay. And they were all
21 bosses?
22 A. Yes, sir.
23 Q. And were there any other
24 workers with you?
25 A. Yeah. There was three other
01 ones.
02 Q. And who were they?
03 A. Jeremy Toler, Casey and
04 George. I don't remember their last
05 names.
06 Q. Okay. About how long did it
07 take to complete the construction? I
08 mean, how many weeks did you work on
09 them?
10 A. I don't remember.
11 Q. But until the tenth one was
12 complete --- you completed the tenth
13 one?
14 A. Yes, sir.

21

15 Q. So Three through Ten were
16 completed before One and Two?

17 A. That don't sound right.
18 Number Ten, I remember us putting the
19 methane pipe in, but I don't remember
20 finishing it. I can't remember. I
21 remember putting the methane pipe in
22 there, though.

23 Q. Okay.

24 A. But I can't remember if we
25 --- if I was there for the finish of

22

01 it or not.

02 Q. Here's what I'm going to do.
03 I'm going to let you describe how you
04 built the seal from start to finish,
05 and I'm not going to interrupt you.
06 You just give me the whole spill, and
07 then we'll go back and we'll piece it
08 back together.

09 A. Okay.

10 Q. Well, first we measured off
11 where we need to put it. I don't
12 remember the measurements, but then
13 we'd clear out our area, shovel it
14 out, whatever we need to do. And
15 then we'd put some dry B-Bond down
16 for a good surface to start on it.
17 Then we'd start out with the Omega
18 block, we'd set one longways, and
19 then the row right behind it, we sit
20 it the other way, and did that all

21 the way to the other rib, rib to rib.
22 And we came back to the other side,
23 where we set one longways we set one
24 opposite from it on the other side
25 and then longways. We did that all

23

01 the way up.

02 Pretty much all I did was mix
03 mud. I mean, I seen how it was
04 built. I laid a few rows. You put
05 mud on every layer, joint. When we'd
06 get to the top, we had to --- they
07 told us we could use three fly
08 boards, no more than two inches of
09 wood, so that's what we did to wedge
10 it down. Not really wedge it down,
11 but to cap it off. And then we'd go
12 outside read good with mud, BBond.

13 Q. Okay. Did they have a plan
14 that they went over with you? Did
15 they give you any kind of specific
16 training on how to build it?

17 A. No, they didn't really. I
18 mean, the superintendent went over
19 --- I mean, just talked to me about
20 it.

21 Q. That's what I'm talking about.

22 A. Yeah.

23 Q. Superintendent, who?

24 A. Jeff Toler.

25 Q. And he came to the area of the

01 seals?
02 A. Oh, yeah.
03 Q. Was he there very often?
04 A. He'd usually come up at least
05 one time during each seal.
06 Q. One time during each seal?
07 A. Yeah.
08 Q. Okay.
09 A. Pretty much.
10 Q. And the first time that you
11 went there, now, did he --- let me
12 just go back. He did tell you what
13 the proper way was to build the seal?
14 A. Yes, sir.
15 Q. And what were those
16 instructions, if you can recall?
17 A. Just what I said. Just make
18 sure you got a good, you know, level
19 ground to start on so it ain't all
20 wobbly and stuff. And then just
21 offset them like we was, and make
22 sure you mud it up good, cap it off
23 good.
24 Q. Okay. So the superintendent
25 looked at, you would say, every seal

01 as they were being built?
02 A. Yes, sir.
03 Q. So he had knowledge of their
04 construction?
05 A. Oh, yes, sir.

06 Q. And he personally supervised
07 that construction; is that right?
08 A. Yeah. He'd come up there to
09 talk to Skip and make sure
10 everything's going good.
11 Q. Okay.
12 A. He usually came up there and
13 measured them off for us.
14 Q. So what did they do, mark the
15 rib where they were going?
16 A. Yes, sir.
17 Q. So he picked the location?
18 A. Yeah, for --- I remember him
19 marking off quite a few of them.
20 Q. And how did he mark them off?
21 A. He'd take a tape measure. And
22 I don't remember what he marked it
23 with.
24 Q. Spray paint, chalk? But there
25 was some kind of ---

26

01 A. Yeah, we had ---.
02 Q. --- indication?
03 A. We had a marker.
04 Q. Okay. And how much of the
05 area did you clean where that seal
06 was going to be built?
07 A. Just right where the seal was.
08 Q. Okay. So the --- and how wide
09 was that seal about?
10 A. Maybe three and a half,

11 somewhere in there.
12 Q. Okay. So you would clear it
13 down to hard bottom?
14 A. Yes, sir.
15 Q. And what about the preparation
16 of the rib and the roof?
17 A. Well, we really never had to
18 scale down anything, we usually
19 picked a place with good top. So we
20 never usually did anything to it.
21 Q. Do you recall any kind of
22 fencing on the roof?
23 A. Yeah. That's where we bolted
24 that screen up to the top.
25 Q. And do you recall removing

27

01 that screen ---
02 A. Oh, yeah.
03 Q. --- where the stopping ---?
04 A. Yeah.
05 Q. Okay. Now, you were there
06 from Three all the way to Ten?
07 A. Yeah.
08 Q. Do you remember any kind of
09 wires, cables, pipes, other than the
10 sample tube in Ten?
11 A. Right.
12 Q. Do you remember anything as
13 far as any kind of rail that passed
14 through those stoppings?
15 A. No.
16 Q. Okay. So now we have the

17 bottom cleared out, and you prepared
18 the bottom to lay your first course
19 down how?

20 A. Dry BBond.

21 Q. Dry BBond. Now, do you recall
22 a special kind of cement that you did
23 use?

24 A. Yeah. It was a better grade
25 than BBond or something. I remember

28

01 that much.

02 Q. Do you remember what the color
03 of the bags were?

04 A. I think they were green.

05 Q. Okay.

06 A. I'm pretty sure of that.

07 Q. But they were special for seal
08 building?

09 A. Yes.

10 Q. And did you use anything else
11 other than that particular type of
12 cement for those seals?

13 A. No, sir.

14 Q. Was it different than what you
15 used for a stopping?

16 A. Oh, yeah. It had --- I
17 remember it had sealant on it or
18 something for seal, or something like
19 that.

20 Q. Okay.

21 A. I know it was different than

22 what they usually used on stoppings.

23 Q. Okay. Good. Now, on that
24 bottom --- so you say the bottom
25 wasn't even all the time?

29

01 A. No, it had ruts in it and
02 stuff.

03 Q. And tell me how you leveled
04 that so you could have a good flat
05 bottom?

06 A. Put that BBond there in the
07 rut until it came out even with the
08 rest of them.

09 Q. So you just put nice dry BBond
10 down?

11 A. Uh-huh (yes).

12 Q. And did you ever have to put
13 any, like, parts of block to fill in
14 so that you can have a nice --- or
15 any kind of wood?

16 A. No.

17 Q. So you just put enough bags of
18 BBond down to level it?

19 A. Yeah. Uh-huh (yes).

20 Q. Okay. Did you ever apply any
21 water to that or mix mud for the
22 bottom?

23 A. Not that I remember.

24 Q. So that was pretty much
25 standard for all of them?

30

01 A. Yeah. Dry BBond.

02 Q. Dry BBond. Just like you do
03 with rock dust on a stopping; is that
04 right?
05 A. Yeah.
06 Q. Okay. So now, that first
07 layer that you put in, after you put
08 the first layer down, like you said,
09 you stagger the joints?
10 A. Right.
11 Q. What did you do before you put
12 the next layer on?
13 A. Mudded it up good and tight.
14 Q. Okay. Now, how did you do
15 that? Did you first wet the block,
16 or did you lay them dry?
17 A. No, we didn't lay them dry.
18 We put mud in the joints.
19 Q. Okay. You said you mixed a
20 lot of the mud.
21 A. Yeah.
22 Q. And what did you mix it in?
23 A. Well, we had a wheelbarrow.
24 Q. Okay. And how many bags of
25 BBond did you put in the wheelbarrow?

31

01 A. I think it was about three
02 bags to one can of water.
03 Q. And how big was a can of
04 water?
05 A. One of them five-gallon jugs.
06 Q. Okay. So you used one

07 five-gallon jug ---?
08 A. Well, it's five-gallon jug.
09 One of them ten ---.
10 Q. Yeah. And add one mix?
11 A. Yeah.
12 Q. What would you say the
13 consistency of the cement was?
14 A. What do you mean?
15 Q. Soupy.
16 A. It was always a pretty fine
17 grade.
18 Q. It was what?
19 A. It was always a pretty fine
20 grade.
21 Q. I mean, it was thinner or
22 soupy so you could spread it easy?
23 A. Yeah. You could spread it
24 pretty easily.
25 Q. Okay. Would you say like a
32
01 soup-like texture, or would you
02 say ---?
03 A. I'd say a little bit thicker
04 than soup, but you could still spread
05 it good.
06 Q. Okay. And what did the guys
07 put on their hands to spread it?
08 A. We had them long rubber gloves
09 that come up past your elbow.
10 Q. And did you apply the cement?
11 A. Every once in a while, but not
12 too often.

13 Q. So how would you get it up
14 onto the block, would you put it in a
15 bucket and dump it?
16 A. Yeah. We had them plaster
17 buckets, put it in that.
18 Q. And you would spread this with
19 the rubber gloves across the surface;
20 is that right?
21 A. Yeah.
22 Q. And how did you get the cement
23 into the joints then?
24 A. Separate the blocks some, make
25 sure it got down in there.

33

01 Q. How did you do that, did
02 you ---?
03 A. I don't know. I wasn't really
04 part of that.
05 Q. I mean, when they put the
06 blocks up, they didn't put mud on the
07 ends; did they?
08 A. Yeah. Well, see on the first
09 row, we'd separate them a little bit.
10 I've seen them do that and throw it
11 down in there. But then when we got
12 up on top, I seen them throw some on
13 the sides and stuff like that.
14 Q. Like, I have an Omega block
15 here.
16 A. Right.
17 Q. Do you mean they would smear

18 it on the sides?

19 A. Yeah, I seen them do that.

20 Q. Okay. On all of them or some
21 of them?

22 A. I couldn't tell you. I wasn't
23 watching the whole time, I was too
24 busy mixing.

25 Q. Okay. Would you say that most

34

01 of the cement that got between the
02 joints was cement that oozed down
03 through the joints?

04 A. I don't know. I couldn't tell
05 you.

06 Q. Okay. So you say that you
07 kind of separated the blocks on the
08 first row so the cement would run
09 through it?

10 A. Yeah.

11 Q. So that tells me that that's
12 how the cement got on the ends then?

13 A. Right.

14 Q. Okay. What about as the seal
15 became higher, how did you tighten it
16 to the rib?

17 A. They'd take wedges, throw down
18 on the sides.

19 Q. Would you pound the wedges in?

20 A. Yeah, between the rib and the
21 Omega block.

22 Q. About how many times did you
23 have to do that, or did you do it on

24 all of them?

25 A. Just like if you need it for a

35

01 filler, if we got a gap there in the
02 rib there or something.

03 Q. Okay. So if there was a gap,
04 you used ---

05 A. A wedge.

06 Q. --- a wedge? Did you ever use
07 any paper bags to stuff in so that
08 you could ---?

09 A. I don't remember.

10 Q. Okay.

11 A. I wasn't a part of that, I
12 just mixed mud.

13 Q. Okay. Just what you know.

14 That's all I want you to tell me.

15 Now, as you get further up this seal,
16 was there anyone that had worked on
17 the back of the seal?

18 A. Oh, yeah.

19 Q. And what were they doing?

20 A. They were mudding the
21 backside, getting that back row
22 there, because once we got so far up,
23 you couldn't reach it.

24 Q. Okay. Do you remember any
25 cribs set in the front or the back?

36

01 A. Yeah.

02 Q. What do you remember about

03 that?

04 A. I remember we had to set two
05 in the back and two in the front.

06 Q. Okay. How far were the cribs,
07 do you recall, from the back of the -
08 -- how much space was between the
09 crib and the back of the seal?

10 A. Maybe five-foot.

11 Q. So it was enough distance that
12 someone could get back there and
13 work?

14 A. Oh, yeah.

15 Q. Okay. What about on the
16 front?

17 A. I think it was the same,
18 five-foot.

19 Q. Were the cribs built before
20 these --- on the front before the
21 seal was completed, or did they wait
22 and put the crib up after the seal
23 was complete?

24 A. No, we did different --- like,
25 on the back ones where the

37

01 ---. I remember on one, we put them
02 up before we built the seal.

03 Q. Okay.

04 A. And most of the time, we would
05 wait until we got the seal done.

06 Q. Now, you've mentioned the fly
07 boards that you put on the top. How
08 many fly boards did you place on the

09 top?
10 A. I think it was three.
11 Q. Three?
12 A. Yeah.
13 Q. And how far did they extend?
14 Did they go from rib to rib, or did
15 they ---?
16 A. There's probably a gap there
17 on each end.
18 Q. Okay. And how did you tighten
19 the top of that sealing?
20 A. Wedges.
21 Q. And how far apart were the
22 wedges, or ---?
23 A. I don't remember.
24 Q. Okay.
25 A. I know it was pretty much when

38

01 we were capping it off, we may get it
02 all the way down through there with
03 them.
04 Q. You go all the way down?
05 A. Yeah. You know, we'll put
06 them longways, put in pretty much a
07 filler.
08 Q. Did you have to put the middle
09 one in first, or did you put the back
10 one in first and then put the middle
11 one in from the outside?
12 A. I ---.
13 Q. You don't remember?

14 A. No. I think we had all three
15 of them on the front side. I was
16 mixing mud, and we'd just shove them
17 back going through there.
18 Q. Oh, you pushed them back?
19 A. Yeah.
20 Q. You pushed the one all the way
21 in the back?
22 A. Yeah.
23 Q. Well, how could you wedge that
24 one in the back?
25 A. Them guys on the other side.

39

01 Q. Okay. All right. Did you
02 fill any --- do you recall them
03 putting any cement in after that
04 first board was in to kind of fill to
05 it?
06 A. Yeah.
07 Q. They did?
08 A. Uh-huh (yes).
09 Q. How did they get it in there?
10 A. I seen one of them bosses
11 throwing it back in there.
12 Q. Okay. And then they would
13 fill that in, put the middle board
14 in?
15 A. Yeah. By the way, it'd have
16 to be.
17 Q. And then the last one?
18 A. Uh-huh (yes).
19 Q. And then they would face it

20 off?

21 A. Uh-huh (yes).

22 Q. And you recall them building
23 the --- on the Number Ten seal you
24 said about a sample line in there.

25 A. Yeah.

40

01 Q. And what was --- could you
02 please explain a little bit of that?

03 A. It was some kind of metal
04 tube. I don't know, it was pretty
05 long, 15 --- 10 to 15-foot long.

06 Q. Okay.

07 A. One of them back cribs, where
08 you had your two right here, we put
09 another one behind that one and
10 strapped it to them.

11 Q. So there was more than two
12 cribs behind Ten?

13 A. Uh-huh (yes).

14 Q. One more or several?

15 A. Yeah. It was --- no, there
16 was actually three right there in a
17 row. And we just put that two
18 through the middle of them, tied them
19 off.

20 Q. You went right through the
21 space in the crib?

22 A. Yeah.

23 Q. About how far from the roof
24 was it?

25 A. I don't know.

01 Q. Okay. How far did it stick
02 out on the fresh air side of the
03 seal? Thirty (30) inches, six feet?

04 A. I don't know.

05 Q. Okay. Do you recall any other
06 pipe that was in the pipe?

07 A. That's where I about left,
08 because I remember I was thinking
09 copper tubing or something went in
10 there. I think --- yeah, that's
11 where I left. I wasn't there for the
12 other one.

13 Q. Okay. So it was just a
14 straight pipe that went through?

15 A. Right.

16 Q. You didn't see the copper or a
17 valve or anything?

18 A. No, sir.

19 Q. Whenever you built --- now,
20 were all the stoppings built the
21 same?

22 A. Pretty much.

23 Q. Any of them different in any
24 way?

25 A. No. Me and Jeremy, we pretty

01 much were the ones on them, so ---
02 they were almost the same.

03 Q. They were all Omega block
04 seals?

41

42

05 A. Yes, sir.
06 Q. In any of the locations that
07 you built these, was there any
08 standing water?
09 A. No.
10 Q. No?
11 A. No, sir.
12 Q. All the seals were built with
13 the bottom --- were they all leveled
14 the same way?
15 A. Yes, sir.
16 Q. Okay.
17 A. With dry BBond.
18 Q. Dry BBond.
19 A. Uh-huh (yes).
20 Q. And were all the stoppings the
21 same --- not stoppings, all the seals
22 the same thickness?
23 A. Yes, sir.
24 Q. Okay. Whenever they had to
25 cut a block, how did they cut it?

43

01 A. They usually used a buck saw
02 or an axe.
03 Q. An axe, too? Just like you
04 break cement block, you use the axe?
05 Were they all new Omega block, or
06 were there some used?
07 A. Well, they're supposed to be
08 new, but by the time they got up that
09 far, there was some broke and stuff.

10 But they were packaged up new.
11 Q. Okay. They weren't re-used?
12 A. No.
13 Q. Okay. And were any of the
14 blocks wet down with water before
15 they laid them?
16 A. No. No, sir.
17 Q. They weren't?
18 A. Uh-uh (no).
19 Q. Okay. How many pound bags
20 does the mortar come in?
21 A. Do what?
22 Q. What were they, how many pound
23 bags? You know, like rock dust comes
24 in 50s.
25 A. I think they said they were
01 80-pound bags.
02 Q. Okay. Did you ever have any
03 mortar that was brought in buckets,
04 pre-mixed?
05 A. No. No, we used the stuff you
06 had to mix up yourself.
07 Q. Okay. Do you know how thick
08 the mortar was?
09 A. I know on the outside it was
10 thick.
11 Q. That was the facing?
12 A. Yeah, because I helped with
13 that.
14 Q. Okay. Now, when you spread it
15 on the top as you laid down each

16 course?

17 A. Well, I know the few I laid, I
18 put it on thick. I probably got
19 about, I'd say close to an inch on
20 mine. The few I did lay.

21 Q. Okay. And what about the
22 joints, were they butted together?

23 A. Yeah. The mortar there?

24 Q. Yeah.

25 A. The ones I laid, I had it in

45

01 there good.

02 Q. Okay. Did you ever use any
03 empty bags to fill in anywhere in the
04 wall?

05 A. Not that I recall.

06 Q. Okay. Were any of the two
07 --- you said they were all built the
08 same way?

09 A. Uh-huh (yes).

10 Q. Do you recall there ever being
11 a pilaster? Do you know what
12 pilaster is?

13 A. Yeah.

14 Q. Okay. Did any of them have a
15 pilaster in them?

16 A. No.

17 Q. And did any of them have a
18 pier built on the bottom, like a
19 poured concrete footer?

20 A. No.

21 Q. About how thick, Seth, were
22 those planks that they put on the
23 top?
24 A. The wedges?
25 Q. No, no. The fly boards.

01 A. They was a normal fly board,
02 so they weren't no more than an inch.
03 Q. Okay. Did they --- were any
04 of the seals started and not
05 completed for any length of time,
06 where they'd let them built half way
07 and then go and work on another one?
08 A. I don't remember.
09 Q. Okay. Do you know if the
10 coating on the outside, the plaster
11 that you put on, do you know if it
12 stayed wet, or if it stiffened up?
13 A. Oh, yeah, it stiffened up.
14 Q. It did?
15 A. Oh, yeah.
16 Q. Did you put more than one
17 coating?
18 A. Yeah, we went back over a few
19 of them there, the ones I was there
20 for. Me and Jeremy went over a few
21 of them again.
22 Q. Okay. Do you remember the
23 sequence that you worked on the
24 stoppings that they were installed
25 --- the seals, I'm sorry? I keep

46

47

01 saying stoppings.
02 A. I remember we built Ni ne
03 first.
04 Q. You built which one first?
05 A. Number Ni ne.
06 Q. Ni ne first?
07 A. And then Eight and Seven. For
08 some reason I remember we skipped one
09 of them. I think it was Number Si x,
10 Four and Five. Yeah, I think we went
11 back to Si x.
12 Q. Okay. What would be the
13 reason why they would leave one out
14 in the middle? Were they still
15 retrieving things from the back?
16 A. No, it was a little bit taller
17 than --- in some areas. The only
18 place where it wasn't really tall was
19 pretty much in the back. And we
20 really didn't know about it yet, so
21 we had --- before we built it, we had
22 Jeff come look at it.
23 Q. That was which one?
24 A. I'm pretty sure it's Number
25 Si x.

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01 Q. Si x?
02 A. Yes, si r.
03 Q. So it was higher. You mean,
04 higher than what?
05 A. The top was higher than the

06 rest of these.

07 Q. Do you know if there was a
08 specific height restriction on how
09 high the seals had to be built?

10 A. I remember them saying
11 something about it. I don't remember
12 what the height was.

13 Q. Anything about width?

14 A. I remember if we went so high,
15 we had to go --- you know, it was a
16 bigger width, but ---.

17 Q. Okay.

18 A. That's all I remember about
19 that.

20 Q. Let's see. How did you get
21 the --- you say there were roof mats
22 that traveled --- that were on the
23 roof that you had to remove?

24 A. The screen?

25 Q. Yeah.

49

01 A. Yeah.

02 Q. How much of that, and how did
03 you cut it out?

04 A. I think we just took out the
05 whole sheet where the seal was going
06 to be, just cut it with bolt cutters.

07 Q. Okay. While you were employed
08 at Sago, did you, at any time, work
09 in by that seal area?

10 A. Uh-huh (yes).

11 Q. And what kind of work did you

12 do in there?

13 A. Well, they were still up there
14 on that section, the old Two Left.

15 Q. Uh-huh (yes).

16 A. And we had --- we screened all
17 the way up, pretty much all the way
18 up in there.

19 Q. So you were a roof bolter?

20 A. Yes, sir.

21 Q. Any time that you were back in
22 that area, did you notice anything
23 peculiar about the roof or unusual?

24 A. It was always pretty --- you
25 always had to keep your eyes on top,

50

01 which you always do, but it was ---
02 it was more flakey in spots.

03 Q. I have a --- this is a picture
04 of the roof.

05 A. Okay.

06 Q. In fact, we'll call this
07 Osborne Exhibit Three.

08 (Osborne Exhibit Three

09 marked for

10 identification.)

11 BY MR. O'DONNELL:

12 Q. Now, this area that I'm going
13 to show you is spad 4010, which is
14 right here in this area, see the
15 corner?

16 A. Uh-huh (yes).

17 Q. And I'm referring to the map,
18 Exhibit One, where the section, the
19 old section branches to the left.
20 That's spad 4010. This photograph
21 was taken at that location. Do you
22 recall ever seeing these marks on the
23 roof back there?
24 A. Which ones? I don't know,
25 what kind of mark is that? No, I

51

01 can't really make out what that is.
02 I don't know what that is.

03 Q. Okay.

04 A. Was it supposed to be a paint
05 mark or something?

06 Q. Well, it's just a mark on the
07 roof, and we were curious to see if
08 maybe you recall ever seeing this
09 when you were in there.

10 A. Is that a ridge on the top or
11 something?

12 Q. It's what?

13 A. Is that a ridge on the top?

14 Q. That's a marking of some sort.

15 A. I don't know. We put up
16 center lines with, I mean, paint,
17 but ---.

18 Q. Okay. If you don't recall,
19 that's fine.

20 A. Yeah, I don't ---. I don't
21 know really what I'm looking at.

22 Q. Well, if you would have maybe

23 saw it, you would have said, yeah, I
24 remember seeing that mark on the
25 roof, so that's fine.

52

01 A. Yeah.

02 Q. We are going to take about a
03 five-minute break. And what we do
04 is, these guys tell me all the
05 questions that they want me to ask,
06 so ---.

07 SHORT BREAK TAKEN

08 BY MR. O' DONNELL:

09 Q. Seth, this is --- do you
10 recall ever seeing --- this is the
11 plan that the company submitted for
12 the Omega seals. Do you recall ever
13 seeing this?

14 A. No, sir, I don't.

15 Q. Never showed it to you?

16 A. Uh-uh (no).

17 Q. Okay. Let's go back to the
18 construction. Now, you see on the
19 top --- we'll call this Exhibit Four.
20 (Osborne Exhibit Four
21 marked for
22 identification.)

23 BY MR. O' DONNELL:

24 Q. These are the fly boards that
25 were put on the top.

53

01 A. Right.

02 Q. Does that look like how you've
03 done it?

04 A. No.

05 Q. No?

06 A. No, we got three fly boards
07 like that.

08 ATTORNEY WILLIAMS:

09 What page are you on?

10 Excuse me.

11 MR. O' DONNELL:

12 We're on the last page,
13 page --- it's marked eight on
14 the top.

15 A. We didn't wedge that middle
16 one, and we put our ---.

17 BY MR. O' DONNELL:

18 Q. Let me --- could you speak up?

19 A. Yeah.

20 Q. Go ahead. Now, you're
21 pointing to which board?

22 A. The middle one. We didn't
23 wedge it. We'd put our wedges
24 longways. We didn't ---.

25 Q. So you're talking about the

54

01 back end of the seal, we're talking
02 about the seal side fly board, the
03 back side. The board was put up but
04 the wedges were not driven in, they
05 were placed parallel to the fly
06 board?

07 A. Yeah, we'd set one up there,
Page 44

08 and drive the other one against it.
09 Q. Okay.
10 A. It was flush.
11 Q. And were those wedges, were
12 they the entire length of the fly
13 board like that, or were they spaced?
14 A. No, we usually --- they
15 usually was like just spaced, you
16 know.
17 Q. So it was solid?
18 A. Yeah.
19 Q. So we have the thickness of
20 the fly board now, and now the
21 thickness of a ---?
22 A. Yeah, you probably got two
23 more inches.
24 Q. Two more inches on top of the
25 two inches of the fly board?

55

01 A. That fly board is probably
02 only about an inch. Probably ain't
03 even an inch.
04 Q. All right. So now we have
05 that first --- that backside fly
06 board in. And you say that that fly
07 board did not extend all the way
08 across. Was it short?
09 A. Yeah. It was probably a
10 couple inches shorter on each side.
11 Q. Okay. And how was that area
12 filled in?

13 A. Mud.
14 Q. With cement?
15 A. Yeah.
16 Q. Okay. Now, let's --- and how
17 did you get the cement into those
18 spaces? How did they apply it?
19 A. Just throw it back in there.
20 Q. And would you say that it was
21 --- they threw it in?
22 A. Uh-huh (yes).
23 Q. With their hands?
24 A. Yeah, just took a bottle of it
25 and threw it back in there.

56

01 Q. And that's how it was filled
02 in?
03 A. Uh-huh (yes).
04 Q. And was it completely filled?
05 A. Yeah. It looked pretty good.
06 Q. So let's talking about putting
07 the middle one in, the middle fly
08 board. Now, how was that one
09 installed?
10 A. Just placed back in there.
11 Q. It was just set on top loose?
12 A. Uh-huh (yes).
13 Q. You have to say yes.
14 A. Yes.
15 Q. So of all of the seals that
16 you helped --- involved in the
17 construction --- every time that I
18 have said stopping, I meant to say

19 seal. Every seal that you've
20 constructed, from Number Three
21 through Number Ten?

22 A. It's probably more Number
23 Nine, because I don't remember
24 finishing off Number Ten.

25 Q. Was the center fly board

57

01 always installed the same way?

02 A. Yeah.

03 Q. Okay. Now, let's talk about
04 the last fly board, which is on the
05 fresh air side of the seal. Now, how
06 were the wedges installed?

07 A. The same way as that back
08 side.

09 Q. So the wedges were not driven
10 from the outside in, they were placed
11 parallel to the fly board?

12 A. Yeah, they're pretty much
13 flush.

14 Q. Flush?

15 A. Yeah.

16 Q. Okay. And you say there was a
17 pipe that was in the Number Ten seal.

18 A. Uh-huh (yes).

19 Q. Was it one pipe or was it two
20 pipes?

21 A. I only remember one.

22 Q. How did they --- well, you
23 only remember one pipe. Two joints

24 put together?

25 A. Yeah, it was.

58

01 Q. Was it screwed together?

02 A. Yeah. Yeah, it was fit in
03 there.

04 Q. It was a fitting?

05 A. Yeah.

06 Q. A connector?

07 A. Yeah.

08 Q. Okay. Did you use a pipe
09 wrench to put it together?

10 A. No.

11 Q. Or did you just screw it by
12 hand?

13 A. Screwed by hand. But see, I
14 wasn't there for the finish of it,
15 so ---.

16 Q. Okay. But what about the
17 installation of that?

18 A. That was ---.

19 Q. I know you said that you
20 weren't there for the copper tubing,
21 but you were there for putting the
22 larger pipe through?

23 A. Yeah. We placed it through
24 the cribs there and screwed it
25 together.

59

01 Q. By hand?

02 A. Yes.

03 Q. Do you know if it was just a

04 couple threads in it, or ---?
05 A. No, we got it as tight as we
06 could.
07 Q. By hand?
08 A. Yeah. It was more than a
09 couple threads.
10 Q. Let's see here. Did you ever
11 work on an Omega stopping?
12 A. Yes.
13 Q. And tell me about the
14 construction of an Omega stopping?
15 A. They weren't, like, flat like
16 that. They were up tallways.
17 Q. On end?
18 A. Yes, sir.
19 Q. How were they tightened up?
20 A. About the same way. We'd
21 drive some wedges there on the rib.
22 They were actually, though, pushing
23 together. And we'd get it to the
24 top, and we'd actually wedge it down
25 good.

60

01 Q. Okay. And so it was different
02 than a seal?
03 A. Yeah.
04 Q. Now, whenever you were
05 applying the cement to the seal, when
06 you were constructing the seal, you
07 said that whenever you built the
08 bottom levels, that you applied

09 cement to the top and kind of ---
10 A. Yeah, we made sure it got down
11 in there.
12 Q. --- pressed the cement down
13 into the joints?
14 A. Yeah, we made sure it got down
15 in the joints.
16 Q. Okay. Would you say --- okay.
17 And as you got higher on it, you
18 said that you couldn't reach, so you
19 had to do something differently
20 there.
21 A. I was just talking about, like
22 if we were on this front side, we
23 couldn't reach that back row. That's
24 why we had them two other guys back
25 there.

61

01 Q. Okay. But did you have to put
02 cement on the ends before you put it
03 up?
04 A. I wasn't part of that.
05 Q. Okay.
06 A. I mean, I've seen them do it,
07 but ---.
08 Q. Okay. I need just a minute
09 break.
10 A. Okay.
11 MR. O' DONNELL:
12 Let's go off.
13 SHORT BREAK TAKEN
14 BY MR. O' DONNELL:

15 Q. Seth, if you would, on this
16 Exhibit Four.

17 ATTORNEY WILLIAMS:

18 The last page?

19 BY MR. O' DONNELL:

20 Q. The last page. Could you with
21 this pen show which way the wedges
22 were installed? And let me
23 --- before you do that, were the
24 wedges between the roof and the fly
25 board or between the block and the

62

01 fly board?

02 A. We did it both ways sometimes
03 just with what the roof looked like.

04 Q. So sometimes the wedges were
05 between the block and the fly board?

06 A. Yeah, but if we did that ---
07 if we had the fly board against the
08 top, we went all the way like that
09 with the fly board against the top.
10 If we put the wedges in, we put the
11 wedges all the way against the top.

12 Q. Okay. So it wasn't some here
13 and some there?

14 A. No, no.

15 Q. So there were occasions when
16 the wedges were put between the top
17 of the Omega block seal and the
18 bottom of the fly board?

19 A. Yeah, something like that.

20 Q. Okay.

21 A. And the wedges --- turn that

22 around. They were like that.

23 Q. Okay.

24 A. And usually it was ---.

25 Q. Go ahead, you can draw on

01 there.

02 A. Okay. See that one going like

03 that, we had to put another one like

04 that that way it wouldn't move.

05 Q. Okay. And you've hammered

06 those tight. And you were saying,

07 when you were installing these, they

08 were parallel to the fly board. Were

09 they thin end to thin end?

10 A. Yes. Yes, sir.

11 Q. So ---?

12 A. Yeah, it just made like a ---

13 pretty much a half header.

14 Q. Right.

15 A. So you put ---.

16 Q. Because the way the wedge is

17 made, there's a thicker end and a

18 thin end?

19 A. Right.

20 Q. And the two thin ends were

21 faced towards each other and wedged

22 together, hammered ---

23 A. Uh-huh (yes).

24 Q. --- tight, and that caused

25 compression on the seal; right?

63

01 A. Well, we would make sure it
02 was snug somewhere. I don't remember
03 --- somebody said we didn't have to
04 get them tight.
05 Q. Okay.
06 A. I don't know if that's right
07 or not.
08 Q. Well, if that's what they
09 told.
10 A. That's what they told us, so
11 that's what I was doing. I was a red
12 hat, so ---.
13 Q. You did what they told you;
14 right?
15 A. That's right.
16 Q. Just to clarify, you said that
17 they --- when you were throwing
18 cement into the top of the seal, and
19 you said you slung it back?
20 A. Yeah. I seen one boss do it
21 like that.
22 Q. Did they ever tap it in?
23 A. Not that I recall.
24 Q. Okay.
25 A. Usually, by that time when

01 they were finishing that part up, I
02 had enough mud mixed, and I'd go
03 start on the cribs or something.
04 MR. O' DONNELL:

05 Okay. John, do you
06 have any follow-up questions?
07 MR. COLLINS:
08 Yes, just a couple,
09 please.
10 BY MR. COLLINS:
11 Q. Just like Mr. O'Donnell said,
12 we're investigating the accident, and
13 we definitely appreciate you coming
14 and talking to us.
15 A. No problem.
16 Q. And mainly we think that we
17 wanted to talk to you about the
18 seals, and I think you've done an
19 excellent job on answering those
20 questions also.
21 A. Thank you.
22 Q. Skip, do you know if his name
23 was James Scott?
24 A. Yes, that's it.
25 Q. And is he a foreman for

66

01 Garrett Mine Supply?
02 A. Is that what GMS stands for?
03 Q. GMS.
04 A. Yeah.
05 Q. And that's who you were
06 employed by at the time?
07 A. Yes, sir.
08 Q. Did you ever see --- I mean,
09 you're answering these questions
10 about the seals, you seem to know a

11 lot about the construction of the
12 seals but you never seen a written
13 plan?
14 A. No, sir, nobody ever showed me
15 this.
16 Q. Skip never had it. Did Skip
17 talk to you or train you on the
18 construction of these seals?
19 A. It was more Jeremy Toler.
20 Q. Jeremy?
21 A. Yeah.
22 Q. Did you mainly --- I think you
23 said you mainly mixed the mud?
24 A. Yeah, that's pretty much all I
25 did on every seal.

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01 Q. Then some other foremen came
02 up to help you was --- do you
03 remember if Marty Conrad was there?
04 A. Yes, I remember him.
05 Q. John Jackson?
06 A. Yes.
07 Q. Mike Triplett?
08 A. Not really.
09 Q. Just if you do.
10 A. No.
11 Q. Or Todd McBai ley (phonetic).
12 A. No, I don't remember.
13 Q. But the foremen that were up
14 there, are they employees of Anker as
15 far as you know?

16 A. As far as I knew, they came
17 from that other mine up the road.
18 Q. The days that you worked on
19 the seals, did you go there to begin
20 the shift and stay all day?
21 A. Yeah, pretty much. Just about
22 every day we get up there, work the
23 seals and go to ---. I remember a
24 few of times, if we had a load block
25 coming in and stuff, we'd go help

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01 them unload that. And pretty much we
02 just built the seals.
03 Q. And then these other foremen
04 would come around, they would also
05 help build these?
06 A. Yes, sir.
07 Q. Did you ever hear them having
08 to change anything or the way you
09 were doing it?
10 A. I don't remember.
11 Q. Who do you think was in charge
12 of building these seals? And by that
13 I mean, was it Garrett Mine Supply,
14 or was it Anker?
15 A. I don't know.
16 Q. You said about the dumping the
17 cement or whatever this material is
18 that comes --- I think you said it's
19 special used with the seals?
20 A. Yeah.
21 Q. Dumping that out on the bottom

22 to level, what happens to that then;
23 does it stay dry like that forever,
24 do you know?

25 A. I don't know. All I know we

69

01 used it to level with.

02 Q. Does it get hard, or stay
03 soft, if you know?

04 A. I know around the edges, you
05 know, that would get hard, where ---
06 you know, you'd spill some.

07 Q. Then, I think, also you said
08 you worked up in the old Two Left
09 area some. Was that as they were
10 retreating out of there, mining the
11 bottom seam?

12 A. Yeah. I was up there then,
13 and I was up there while they were
14 still driving it.

15 Q. Do you know of any equipment
16 that was left up in the old Two Left?

17 A. No, sir.

18 Q. And I think it's also fair to
19 give you the opportunity --- I'm sure
20 you don't know as much about what
21 happened, or anything when the guys
22 were working there, but do you have
23 any input into what may have
24 occurred? We're definitely
25 interested in that.

70

01 A. I have no clue. It's beyond
02 me.
03 MR. COLLINS:
04 Okay. That's all we
05 have, sir.
06 BY MR. O'DONNELL:
07 Q. You said that --- was it
08 Jeremy or Jeff that trained you or
09 showed you how to do the seals?
10 A. Well, I rode with Jeff. Most
11 of the times, you know, he'd talk
12 about them, and then when we got up
13 there to do it, Jeremy was actually
14 the one that showed me how to lay it
15 out and stuff.
16 Q. Okay. Let's go back to
17 building a stoppi ng. Not a seal, but
18 a stoppi ng.
19 A. Okay.
20 Q. Did you lay fly board on the
21 top of those Omega stoppi ngs?
22 A. No, we just wedged it down.
23 Q. Just wedged it down. Okay.
24 ATTORNEY WILLIAMS:
25 Just go off the record

71

01 a second.
02 OFF RECORD DI SCUSSION
03 BY MR. O'DONNELL:
04 Q. You said that you helped build
05 the cri bs.
06 A. Uh-huh (yes).

07 Q. Were the cribs wedged in
08 tight?
09 A. Yes, sir.
10 Q. Okay. Thank you. How did you
11 wedge them in, did you use ---?
12 A. Wedge and a hammer.
13 Q. A hammer, or an axe, or a
14 sledge, or ---?
15 A. No. A few of them we had an
16 axe on. For the most I just used my
17 hammer.
18 Q. Would you say they were fairly
19 tight?
20 A. Oh, yeah.
21 MR. O' DONNELL:
22 John --- Mr. Collins,
23 do you have anything?
24 MR. COLLINS:
25 Just a clarification,
72
01 please.
02 BY MR. COLLINS:
03 Q. These foremen that came up to
04 work with you, did they work on the
05 shift with you, or part of a shift?
06 A. I just remember one day them
07 working the whole shift.
08 Q. And most of the time they
09 would just work some?
10 A. They'd come up there to help
11 us, you know, get started, or get

12 some of it built, and they'd go back
13 and work on whatever they had to do.
14 Q. And Seth, had you ever built
15 seals before?
16 A. No, not before this.
17 Q. So the first time that you're
18 getting ready to build a seal, did
19 someone say --- you know, did they
20 train you how to build the seals or
21 anything, or tomorrow we're going to
22 build seals, or today we're going to
23 do ---?
24 A. Oh, yeah. I've heard --- I
25 mean, me and Jeff talked about it

73

01 before and I had questions about it,
02 and he had laid it out and
03 everything.

04 BY MR. O'DONNELL:

05 Q. I just have a couple ---.

06 MR. STUART:

07 Hold on. Wait a
08 minute. We got one more
09 question here. Mr. Collins is
10 developing laryngitis.

11 BY MR. COLLINS:

12 Q. Jeremy, do you remember if
13 they --- Jeremy, I'm sorry. That
14 could be a problem. A question about
15 do you remember one seal being built
16 partially, or --- and then torn down
17 and relocated, or ---?

18 A. Yes, sir. Number Ni ne.

19 Q. Number Ni ne seal?

20 A. Yes. The fi rst one they
21 bui lt.

22 Q. And do you want to tell us
23 what you remember about that?

24 A. Well, I remember me and
25 Jeremy, I think --- we didn' t have it

74

01 far back enough. It was di agonal ,
02 too. So we had to tear it down.

03 Q. Di agonal meani ng crooked?

04 A. Yeah. Yeah. It was pretty
05 bad crooked. So Jeff made us tear it
06 down. We had to rebuild it.

07 MR. COLLINS:

08 Before I say anythi ng,
09 do you guys have anythi ng?

10 MR. STUART:

11 How far up were they
12 when they realized it was
13 crooked?

14 A. Probabl y hal fway done.

15 BY MR. O' DONNELL:

16 Q. Just getti ng back to the
17 seals. On Number Three, what was the
18 reason why that the Number Three and
19 Number Two and One seal were bui lt
20 inby a break and not in a straight
21 line across as Four through Ten seals
22 were constructed?

23 A. I don't remember there was a
24 reason, but I've done forgot.

25 Q. Okay. And just getting back

75

01 to the --- when you began the
02 construction of the seal, when you
03 put the dry bags of BBond on the
04 floor, how wet was the floor?

05 A. It was muddy. I mean, but we
06 usually scrape it down pretty good in
07 order to solid bond them.

08 Q. But it was damp?

09 A. Oh, yeah. It was --- there
10 was mud there.

11 Q. Mud? Did you ever just throw
12 it down on the mud and ---?

13 A. No, we usually shoveled it out
14 of the way some.

15 Q. Okay. Just a few more and
16 we'll be finished.

17 A. Okay.

18 Q. When you began your employment
19 at Sago mine, who gave you your
20 training, and what type of training
21 did they give you?

22 A. What kind of training, my roof
23 bolter training?

24 Q. No, no. Your new miner
25 training?

76

01 A. I don't know really what
02 you're talking about.

03 Q. Okay. Did you have to go to
04 classes for a week?
05 A. No, I never went to class for
06 a week.
07 Q. The first day that you went to
08 work, what did you do?
09 A. I don't remember. I remember
10 working the skid, but ---.
11 Q. Did you go inside the mine?
12 A. Yes, sir.
13 Q. And you did work?
14 A. Yes, sir.
15 Q. I just need to go back over
16 that one. Prior to your employment,
17 did you have to attend any kind of
18 training classes?
19 A. No.
20 Q. Okay. When you were on the
21 mine property before you went
22 underground, did anyone show you the
23 escapeway maps?
24 A. Oh, yeah. They showed me the
25 escape route, the primary and
01 secondary. Where the belt and track
02 was.
03 Q. Okay. This was not the first
04 mine you worked at; is that right?
05 A. No, sir.
06 Q. And then you worked at another
07 coal --- for another coal company

08 before that?
09 A. Yes, sir.
10 Q. Is that the coal company that
11 gave you your training?
12 A. Yeah, I guess, if that's what
13 you call it.
14 Q. Let me ask you this. You've
15 been in the coal mine for ten months?
16 A. Yes, sir.
17 Q. At any time, did you ever sit
18 down for a week and take a training
19 class?
20 A. No, sir.
21 Q. So they didn't show you
22 first-aid or anything like that?
23 A. I went over it in my 80-hour
24 course.
25 Q. What 80-hour course? That's
78
01 what I'm getting at.
02 A. Oh, okay.
03 Q. That's what I'm trying to find
04 out.
05 A. Yeah. Jeff Toler gave me a
06 class.
07 Q. Okay. When did you get that
08 class?
09 A. It was four, five weeks before
10 I went underground.
11 Q. Okay. So you were given a
12 two-week course?
13 A. No, it was more like three.

14 Q. Three weeks?
15 A. Yeah.
16 Q. And where did you attend that
17 --- where did you have that training?
18 A. At his house.
19 Q. At his house?
20 A. Yes, sir.
21 Q. Okay. And did he give you
22 --- did you go over first-aid and all
23 that stuff?
24 A. Yeah. Oh, yeah.
25 Q. What about SCSR training, are
79
01 you familiar with the SR-100, CSC?
02 A. Yeah.
03 Q. And how were you trained on
04 that?
05 A. I don't guess I really was.
06 He showed me at the mine.
07 Q. Did you ever have to put it
08 on?
09 A. No.
10 Q. I mean, did you go through the
11 donning methods of where you knelt
12 down and opened it up?
13 A. No, sir.
14 Q. You didn't do any of that, he
15 just explained it to you?
16 A. Yes, sir.
17 Q. And did he sign your training
18 form?

19 A. Yes, he did.
20 Q. Okay. And you have a copy of
21 that training form?
22 A. I don't even know if I still
23 got it. I probably threw it away.
24 Q. Okay. If you can find a copy
25 of that, we'd appreciate it if you

80

01 could give us a copy of that training
02 form. And you can contact me at that
03 phone number.
04 A. Okay.
05 Q. Or the state.
06 A. Okay.
07 Q. Okay. So you got the training
08 in his home?
09 A. Uh-huh (yes).
10 Q. And did you use a mannequin or
11 anything to learn CPR, or ---?
12 A. No.
13 Q. None of that?
14 A. No.
15 Q. But when you did come to the
16 mine, they did show you the
17 escapeways?
18 A. Yes, sir.
19 Q. How long did that training
20 take before you went underground?
21 A. I think I was outside for
22 about an hour.
23 Q. Okay. Have you ever been
24 searched for smoking articles?

25 Cigarettes?

81

01 A. Oh, yeah.

02 Q. You have?

03 A. Uh-huh (yes).

04 Q. At Sago Mine?

05 A. Yes, sir.

06 Q. And did you ever observe
07 anyone smoking underground at Sago?

08 A. No, sir.

09 Q. Okay. Have you ever found
10 smoking articles underground?

11 A. No, sir.

12 Q. Okay. Has anyone offered you
13 anything or made any promise to you
14 in exchange for you appearing here
15 today?

16 A. No, sir.

17 Q. Okay. Seth, do you have
18 anything that you'd like to add that
19 may be relevant to the investigation?

20 A. No, sir, I don't.

21 MR. O' DONNELL:

22 John?

23 MR. COLLINS:

24 No, sir.

25 BY MR. O' DONNELL:

82

01 Q. The Number Nine seal, how many
02 people were involved in building the
03 Number Nine seal?

04 A. Me and Jeremy pretty much
05 built three-fourths of it, and then
06 the bosses --- them four bosses came
07 and helped us finish it up, mud it
08 up.

09 Q. Okay. Did they ever say that
10 you guys built it in the wrong place?

11 A. Yeah. We had it in the wrong
12 place to begin with.

13 Q. And tell me about that.

14 A. We went from the left side
15 rib, just about to the corner of the
16 right side rib.

17 Q. Okay.

18 A. It was diagonal --- crooked
19 pretty bad. So we had to knock that
20 down and move it back.

21 Q. You knocked it down and moved
22 it back to about how far from the
23 rib?

24 A. I don't remember.

25 Q. Did you put mud on that?

83

01 A. The first one we had, oh, yes,
02 sir.

03 Q. The first one you mudded, did
04 you do it?

05 A. No. I was mixing.

06 Q. You were mixing?

07 A. Yes, sir.

08 MR. O' DONNELL:

09 Okay. Very good.

10 Thank you. John?

11 MR. COLLINS:

12 I don't think we have
13 anything else left.

14 MR. STUART:

15 Mr. Collins, still has
16 his laryngitis.

17 MR. O'DONNELL:

18 Okay. On behalf of
19 MSHA I want to thank you for
20 appearing and answering
21 questions today. Your
22 cooperation is very important
23 to the investigation as we
24 work to determine the cause of
25 the accident. We ask that you

84

01 not discuss your testimony
02 with any person who may have
03 already been interviewed, or
04 who may be interviewed in the
05 future. This will ensure that
06 we obtain everyone's
07 independent recollection of
08 the events surrounding the
09 accident.

10 After questioning other
11 witnesses, we may call you if
12 we have any follow-up
13 questions that we feel that we
14 may need to ask you. If at

15 any time you'd like --- you
16 have additional information
17 regarding the accident that
18 you'd like to provide to us,
19 please contact us at the
20 contact information that we
21 gave you earlier.

22 The Mine Act provides
23 certain protections to miners
24 who provide information to
25 MSHA, and as a result are

85

01 treated adversely. If at any
02 time you believe that you've
03 been treated unfairly because
04 of your cooperation in this
05 investigation, you should
06 immediately notify MSHA.

07 If you wish, you may go
08 back over any answer that you
09 have given during this
10 interview, and you may also
11 make any statement that you
12 would like to make at this
13 time.

14 A. I don't have anything to say.

15 MR. O'DONNELL:

16 Okay. Well, thank you
17 very much. We want to thank
18 you for your cooperation.

19
20

* * * * *

21

SWORN STATEMENT

22

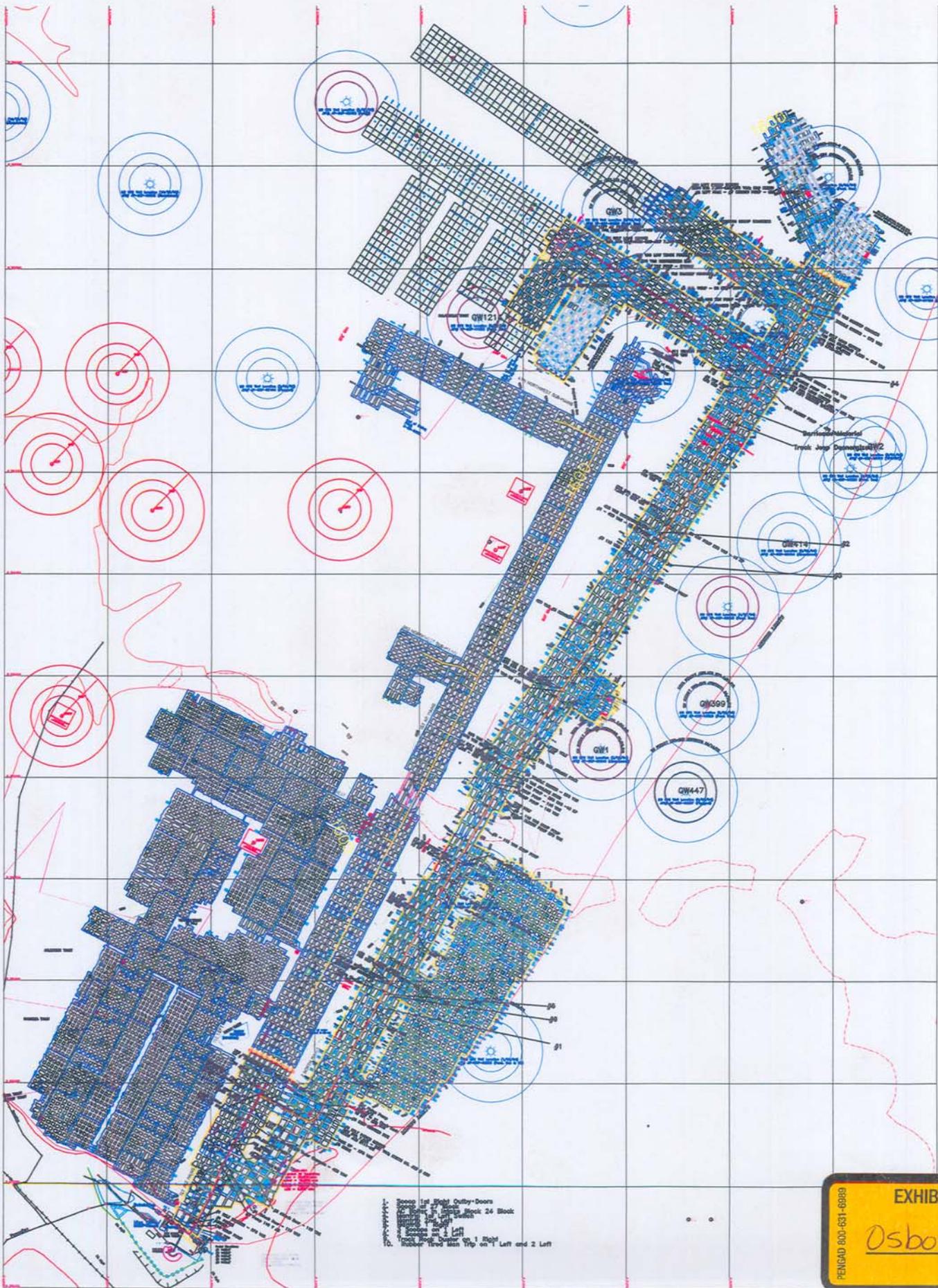
CONCLUDED AT 6: 22 P. M.

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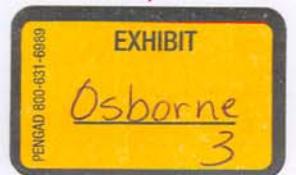


Right Outly-Doors
 Block 24 Block
 Right Man Trip on 1 Left and 2 Left

EXHIBIT
 Osborne
 1



T45



OK

Addition of Omega Seal to Plan 8' high by 20' wide Only

4

U.S. Department of Labor

Mine Safety and Health Administration
604 Cheat Road
Morgantown, West Virginia 26508



OCT 24 2005

UNDERGROUND MINE FILE
RECEIVED 10-24-05
INITIALS aew

SENT TO AND/OR DISCUSSED WITH FIELD OFFICE:

SURNAME	DATE
General Terry	10/13/2005
REVIEWED BY:	
Parrish	10/19/2005
Brooks for TH	10/20/05
Smith	10-20-05
Mosley	10-20-05

Mr. Jeffrey K. Toler
Superintendent
Anker WV Mining Company, Inc.
Route 9, Box 507
Buckhannon, West Virginia 26201

Dear Mr. Toler:

The request filed October 12, 2005, and revision filed October 19, 2005, to add an alternative method of seal construction to the ventilation plan for the Sago Mine, I.D. No. 46-08791, has been reviewed. The alternative method seal made with nonhitched-style Omega blocks is approved and will be included in your currently approved mine ventilation plan.

You are reminded that all changes or revisions to the mine ventilation plan, as specified in 30 CFR 75.370(d), must be submitted to and approved in writing by this office before they are implemented.

If you have any questions, please feel free to contact this office.

Sincerely,

Kevin G. Stricklin

Kevin G. Stricklin
District Manager

EParrish:aew

bcc:
Bridgeport F/O (2)
W. Ponceroff
E. Parrish
Health Section
Map File
Main File



**Anker West Virginia
Mining Company**

Rt. 9 Box 507
Buckkannon, WV 26201

MINING SAFETY AND
HEALTH ADMINISTRATION
MORGANTOWN, WV

*21
10-13-05*

October 12, 2005

2005 OCT 12 PM 3:18

Kevin Stricklin, District Manager
Mine Health and Safety Administration
604 Cheat Road
Morgantown, WV 26508
Attn: Tom Hlavsa

RECEIVED
cm

RE: Sago Mine's Ventilation Plan Changes

Mr. Stricklin:

Anker West Virginia Mining Company wishes to add an Omega Concrete Block Seal Method and Plan to our current Ventilation Plan for our Sago Mine, MSHA ID # 46-08791. It should be noted, that at this time, we only wish to add the non-hitched style to our plan. (See attached diagrams).

If you have any questions on this matter, please feel free to contact me at 304-471-3300.

Sincerely,

Joe Myers

For Al Schoonover
Safety Director

Guidelines for installation of Omega Block Concrete Seals

1. All loose material will be removed from the roof, ribs, and floor to accommodate seal construction and supplemental supports. The seals will be constructed at such a location so that a permanent block seal can be installed in front of the omega seal, if required in the future.
2. The seal will be constructed with Omega blocks using one of the following Methods:
 - A) Total thickness of 40"
 - B) No hitching required.
 - C) Joints must be staggered.
 - D) A bonding agent (Blockbond #122551), will be used to seal between each layer and joining edges of blocks at least ¼" thick and will be applied to the front and back of the seal.
 - E) The Omega blocks will be either be sawed or constructed so as to bring the top blocks to within 2" of the mine roof.
 - F) Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal.
 - G) Wedges will be placed on 1 Foot centers or less, with an approved sealant used to fill the gaps.
 - H) An approved sealant shall be used as full face coating on both sides of the seal.
 - I) Seals shall be installed at least 10 feet from the corner of the pillar.
 - J) Sample pipes shall be installed as per 75.335.
 - K) Water traps will be installed within 12" of the bottom or floor.

RECEIVED

2015 OCT 19 PM 12:41

MAY 19 2015

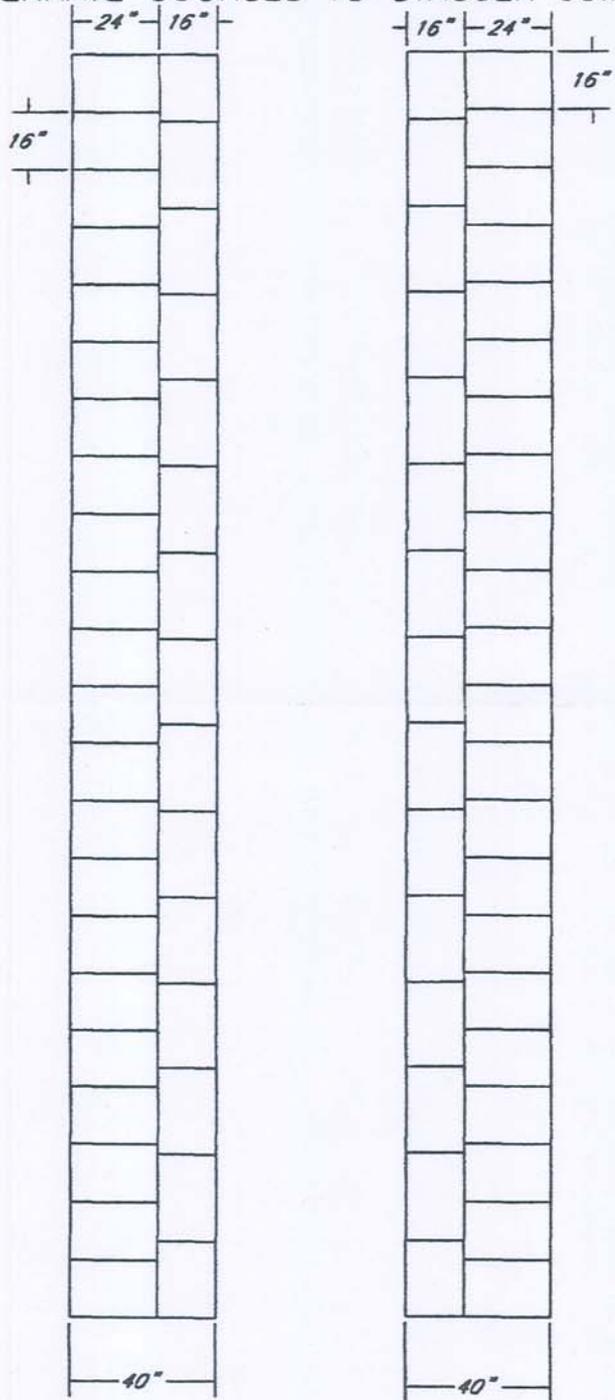
SAGO MINE

40" THICK OMEGA BLOCK SEAL

CONSTRUCTION PLAN

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

ALTERNATE COURSES TO STAGGER JOINTS

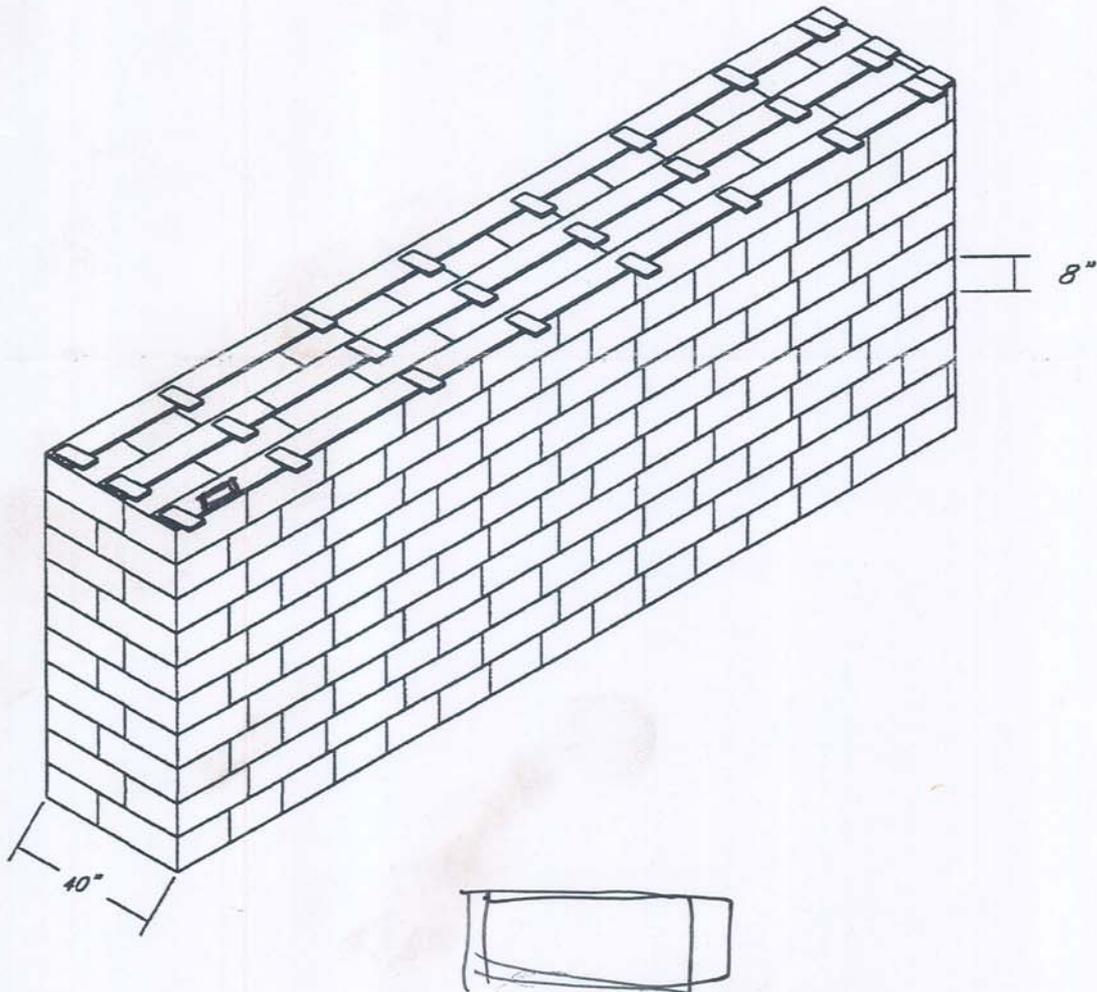


SAGO MINE

40" THICK OMEGA BLOCK SEAL

FOR USE WITH SEALS UP TO 8 FT HIGH BY 20 FT WIDE

1. Total thickness 40 inches
2. No hitching required
3. Joints must be staggered
4. All joints shall be a minimum $\frac{1}{4}$ inch thick and be motared using an approved mortar/sealant
5. Three rows of wood planks running the entire length of the seal shall be installed across the top of the seal
6. Wedges will be placed on 1' centers or less with an approved sealant used to fill the gaps
7. An approved sealant shall be used as full face coating on both sides of the seal.



- Seals shall be at least 10 feet from the corner of the pillar
- Sampling pipes shall be installed as per 75.335